



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,821	03/31/2004	Yuichi Ichikawa	9683/184	5312
27879 7590 01/23/2007 INDIANAPOLIS OFFICE 27879 BRINKS HOFER GILSON & LIONE ONE INDIANA SQUARE, SUITE 1600 INDIANAPOLIS, IN 46204-2033			EXAMINER CAMPOS, YAIMA	
			ART UNIT 2185	PAPER NUMBER
			MAIL DATE 01/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/814,821	ICHIKAWA ET AL.	
	Examiner	Art Unit	
	Yaima Campos	2185	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 6-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: 1. Claims must be given the broadest reasonable interpretation during examination and limitations appearing in the specification but not recited in the claim are not read into the claim (See M.P.E.P. 2111 [R-1]).

1st POINT OF ARGUMENT

2. Regarding Applicant's remarks challenging the 35 U.S.C. 101 rejection; the Examiner maintains her position as in claims 12 and 14, Applicant has provided evidence that Applicant intends the medium to include signals as such the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim is not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter. Therefore, claims 12 and 14 are directed to non-statutory subject matter.

2nd POINT OF ARGUMENT

3. In response to Applicant's remarks that the combination of Suzaki and Pawate does not disclose storing contents in response to a command received via input means for receiving a command from a user; the Examiner disagrees as [Suzaki discloses "a write-back switch... This write-back switch 73 can be configured as a hardware switch or it can be configured as a software switch. The MPU 72 and write-back switch 73 are controlled by OS kernel 75. The OS kernel 75 operates in accordance with requests from program 77 and trial settings 76" (Page 3, Par. 0038)]. One of ordinary skill in the art would recognize that the cited switch comprises input means, as claimed by Applicant and that a "program" or application comprises a set of instructions/commands written by a user that help a user accomplish a specific task; therefore, Suzaki discloses storing contents in response to a command received via input means for receiving a command from a user, as claimed by Applicant.

3rd POINT OF ARGUMENT

4. Regarding Applicant's remarks that the combination of Suzaki and Pawate does not disclose that a processor received trial information to indicate contents are for trial use as Suzaki assumes all software is for trial; it is the Examiner's position that Suzaki discloses this limitation as [if it is assumed that all software is for trial; then as the processor receives data it must immediately recognize this data is for trial use; therefore, the data itself comprises information indicating contents are for trial]. Furthermore, Suzaki explicitly discloses ["it is possible to obtain some findings with respect to whether or not trial software, trial data or mail data is safe" (Page 3, Par. 0035); therefore this trial software, trial data and mail data inherently includes information indicating it is for trial].

4th POINT OF ARGUMENT

5. In response to Applicant's remark with respect to the rejection of claims 9 and 10, that the combination of Suzaki, Pawate, Spencer and Wong does not disclose prompting a user to delete data when running out of space as Wong teaches away as entries are automatically deleted from memory based on age; it is the Examiner's position that the rejection to claims 9 and 10 comprises an obviousness-type rejection. The Suzaki and Pawate references are used for the limitations concerning transferring contents from cache to another content storage, the Wong reference is used for the limitations concerning determining if there is enough space in a content storage before transferring data to this content storage and the Spencer reference is used for the limitations concerning prompting a user to delete contents of a storage device when there is not enough space to store new data [Refer to rejections to claims 9 and 10 in the Office Action mailed 10/23/06].

5th POINT OF ARGUMENT

6. Regarding Applicant's remark that there is not support for the rejection to claim 10 [Refer to rejections to claims 9 and 10 in the Office Action mailed 10/23/06].

6th POINT OF ARGUMENT

7. In response to Applicant's remarks that the combination of Suzaki and Pawate does not disclose exchanging a first identifier for a second identifier that indicated contents are stored enduringly; the Examiner disagrees as Suzaki discloses ["a switch that controls whether or not data is transferred from disk cache to the first storage" (Page 1, Par. 0016). Applicant should note that it is well-known in the art that computer systems including cache memories (temporary storage) and first storage (permanent storage) have addressing means for identifying a location of a device or an area of storage where certain contents are stored; therefore, when contents are stored in cache, the addressing means/location identifier indicates contents are stored in cache and when contents are transferred to first storage, the addressing means/identifier is exchanged/modified to indicate contents are now stored in first storage; therefore, disclosing exchanging a first identifier for a second identifier that indicates contents are stored enduringly].

7th POINT OF ARGUMENT

8. In response to Applicant's remarks that the combination of Suzaki, Pawate, Wong and Spencer does not disclose a processor that is operable to exit and automatically delete the temporarily stored content in response to receipt from a user command to cease execution or processing of the temporarily stored contents [Refer to 1st Point of Argument above and Rejections to claim 9 in Office Action mailed 10/23/06]. Suzaki discloses a prior art approach in which ["a change history is written to the redo log and the contents of changes are saved, and when the guest OS is being terminated it is possible to choose to commit the contents of the redo log to the hard disk, discard the redo log, or to keep the contents instead of discarding the redo log" (Page 1, Par. 0012)]. Applicant should note that "choosing to commit the contents of the redo log to the hard disk or discard the redo log" must be done by some sort of software/application which comprises a user command as a software/application comprises set of instructions/commands written by a user that help a user accomplish a specific task.

8th POINT OF ARGUMENT

9. Regarding Applicant's remarks that the combination of Suzaki and Pawate does not disclose a processor operable to change status of the temporarily in response to receipt of a user command; the Examiner disagrees [Refer to the rejection of Claim 22 in the Office Action mailed 10/23/06. Furthermore, refer to 1st Point of Argument above]


SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100